



## Senators Feinstein and Hatch Lead Bipartisan Coalition to Introduce Comprehensive Legislation to Fight Gang Violence

*-National Association of Police Organizations, National Sheriffs' Association, and International Association of Chiefs of Police Endorse Legislation-*

January 31, 2007

**Washington, DC** – U.S. Senators Dianne Feinstein (D-Calif.) and Orrin Hatch (R-Utah), and a bipartisan coalition of 18 additional Senators today introduced comprehensive gang legislation. The legislation establishes new crimes and tougher federal penalties to deter and punish members of illegal street gangs and provides more than \$1 billion in funding for gang enforcement, prevention and intervention programs over five years.

Unlike previous versions, the legislation has no juvenile transfer provisions, no mandatory minimums, and no death penalties.

The legislation has garnered the endorsement of:

- The National Association of Police Organizations (NAPO), which represents 238,000 police officers from across the country;
- The International Association of Chiefs of Police (IACP);
- The National Sheriffs' Association (NSA); and
- The National Alliance of Gang Investigators Association (NAGIA), which represents approximately 20,000 gang professionals in the United States and Canada.

In addition to Senators Feinstein and Hatch, the legislation is co-sponsored by Senators Charles Schumer (D-N.Y.), Arlen Specter (R-Penn.), Joseph Biden (D-Del.), Jon Kyl (R-Ariz.), Ted Stevens (R-Alaska), Maria Cantwell (D-Wash.), Norm Coleman (R-Minn.), Barbara Mikulski (D-Md.), Max Baucus (D-Mont.), Mark Pryor (D-Ark.), Ken Salazar (D-Col.), Patty Murray (D-Wash.), Sherrod Brown (D-Ohio), Hillary Rodham Clinton (D-N.Y.), Elizabeth Dole (R-N.C.), John Cornyn (R-Texas), Herbert Kohl (D-Wis), and Robert Casey (D-Penn.).

**“For more than 10 years now, Senator Hatch and I have been trying to pass federal anti-gang legislation to provide the tools and resources our country needs to begin the task of reining in criminal street gangs,”** Senator Feinstein said. **“Unfortunately, while Congress has failed to act, violent street gangs have expanded nationwide and become more empowered and entrenched in our communities.”**

**“The FBI reports that violent crime is increasing at its highest rate in 15 years, and many experts attribute this to the increased gang presence in our cities, both large and small. The federal government cannot wait any longer to strengthen its own criminal laws and lend this much-needed hand of assistance to the local agencies battling gang violence.”**

**Senator Hatch said, “Gangs have penetrated virtually every community in the country. Our state and local law enforcement need – and want – our help in giving them new ways to stop this scourge. Gangs don’t just bring violence, though that’s bad enough. They bring all the vices: drugs, prostitution, identity theft, you name it. But if we want to really be effective with addressing gang violence, we need to work across city and state lines. This bill helps us do just that.”**

**“Nobody should have to live in fear of gang violence,” Senator Schumer said. “Gangs are one of biggest threats to public safety in communities across the country. The US Attorneys and the FBI are doing everything they can to work hand-in-glove with local law enforcement to reduce and eliminate gang violence, but they need more help on a federal level. It’s time to give law enforcement officials and community members the necessary tools and funding to attack the gang problem at its root and eradicate it before it grows out of control.”**

**“Youth and gang violence is a growing problem throughout Alaska, particularly in our urban areas,” said Senator Stevens. “To reverse this disturbing trend, we need stricter laws and stronger penalties for those involved in gang activities. The first step in these efforts must be increased federal support for local law enforcement programs and the judicial system. By providing law enforcement and prevention programs with the resources they need, this bipartisan legislation will help keep our communities safe.”**

**“If we’re going to get tough on gangs, then we need to stand by our local law enforcement and get them the resources, tools, and training they need to continue keeping our families safe,” Senator Cantwell said. “We cannot ignore the rise in gang violence affecting too many of our communities. We need to stand by our law enforcement officers and keep violent gang members behind bars and off our streets.”**

**“Gang violence is a scourge that devastates communities and individual families and opens the door for even more criminal elements to be unleashed on a community,” said Senator Coleman. “Our federal, state, and local law enforcement units need to be outfitted with the latest resources and tools that will help them win in the fight against gang violence that is being waged in our country’s cities—both large and small. We need to confront this problem head on and return our neighborhood streets back to the community residents.”**

**“This bill helps us address a growing gang crisis in our neighborhoods that is destroying lives and destroying communities,” said Senator Mikulski, Chairman of the Senate Commerce, Justice, Science (CJS) Appropriations Subcommittee that funds the Department of Justice, including FBI and federal law enforcement programs. “We need to take a**

comprehensive look at gang problems that focuses on prevention, intervention and enforcement.”

**“As the former Attorney General of Arkansas, I have witnessed first hand how gang violence can tear apart families and communities,” said Senator Pryor. “This legislation will not only establish tougher penalties against gang-related crimes, but prevent them from happening in the first place. I’m glad we were able to work together in a bipartisan manner and address this important issue.”**

**“It is past time for Congress to take action on the growing menace posed by criminal gangs,” Senator Salazar said. “Recently, gangs, gang member numbers and gang-related activity have all increased in Colorado and across the nation. This strong, bipartisan bill ensures stronger penalties for those who commit gang-related offenses, increases funding for investigation, prosecution and training of law enforcement officials and invests in the programs essential to preventing our youth from joining gangs. This is a sensible approach and deserves quick action.”**

**“We must to give our communities and local law enforcement the tools they need to combat the growing influence of gangs and stem the surge of violent crime. This legislation is an important step towards meeting these goals,” said Senator Clinton.**

**“Gang violence devastates communities in big cities and small towns across Texas and the nation. Gangs are increasingly associated with international crime syndicates that smuggle drugs and traffic human beings, across our borders,” said Senator Cornyn, a member of the Senate Judiciary Committee and former Texas Attorney General. “We must give federal prosecutors the tools they need to fight the rising gang epidemic. It’s also important to build on proven initiatives such as Texas Exile that take guns out of the hands of criminals.”**

Los Angeles Mayor Antonio Villaraigosa has reported that more than half of the city’s 478 homicides in 2006 were the result of gang violence, and 86 percent of the city’s murder victims were either black or Latino. While the Los Angeles police reported that crime in the city had dropped for the fifth straight year, gang violence spiked by 14 percent in 2006.

**“The increased gang violence in Los Angeles is deeply troubling. While the city’s overall safety is improving, the plague of gang violence continues to terrorize its neighborhoods,” Senator Feinstein said. “The federal government needs to provide a strong response to gang violence. Good people should not be forced to live in fear while gangs destroy our cities.”**

## **Background**

In 1996, Senators Feinstein and Hatch introduced the Federal Gang Violence Act, which would have increased criminal penalties for gang members, made recruiting persons into a criminal street gang a crime, and enhanced penalties for transferring a gun to a minor.

Many of the provisions of that bill were incorporated into the 1999 Juvenile Justice bill, which was approved overwhelmingly (73-25) by the Senate in the 106th Congress. However, the Juvenile Justice bill stalled in Conference Committee, and these provisions were never signed into law.

Another comprehensive gang bill, introduced by Senators Feinstein and Hatch, was approved by the Judiciary Committee during the 108th Congress, but was never brought to the floor of the Senate for action.

In the 109<sup>th</sup> Congress, Senators Feinstein and Hatch joined eight Senate co-sponsors in introducing a revised gang bill, but the Senate took no final action on the bill.

### **Bill Provisions**

- **Makes illegal participation in a criminal street gang a federal crime that affects interstate commerce.** A “criminal street gang” is defined to mean a formal or informal group, club, organization or association of five or more persons who have committed three or more separate felony crimes – including at least one serious violent felony – within the past five years. This legislation makes it a federal crime for a member of a criminal street gang to commit, conspire or attempt a predicate gang crime, or to recruit a minor into one of these gangs.

The term “gang crime” is defined to include violent and other serious state and federal felony crimes such as:

Murder	Manslaughter
Maiming	Assault with a dangerous weapon
Kidnapping	Robbery
Extortion	Arson
Obstruction of justice	Tampering with witnesses or victims
Carjacking	Trafficking in controlled substances
Firearm offenses	Money Laundering

- **Criminalizes violent crimes in furtherance or in aid of criminal street gangs.** Racketeering (RICO) laws were designed to prosecute organized crime, with Mafia-style organizations in mind. One such law prosecuted violent crimes committed in furtherance of the racketeering enterprise.

This legislation would create a similar structure of crimes and penalties for violent street gangs, so that gang members who commit violent crimes such as murder, kidnapping, sexual assault, maiming, assault with a dangerous weapon or assault resulting in serious bodily injury, which are committed in furtherance or in aid of a criminal street gang, would be punished under federal law. Federal law provides more restricted and stringent bail conditions, can move cases to trial more quickly, and leads to prison sentences that are not subject to parole.

- **Creates a new criminal offense for murder and other violent crimes committed in furtherance of a drug trafficking crime.** Drug crimes are also often intimately intertwined with criminal street gangs. This provision creates a new criminal offense for violent crimes that are committed during and in relation to drug trafficking crimes, and requires that any sentence imposed for this crime run consecutive (one sentence must follow another) to any sentence on an underlying drug offense.

### **Prosecuting Gang Members**

- **Establishes new penalties for gang-related crimes.** Under current law, a felon's criminal street gang involvement can be treated at most as a mere sentencing enhancement, adding no more than 10 years to a sentence. This bill establishes far higher penalties for violent gang crimes, including the possibility of life imprisonment without parole for murder, kidnapping, aggravated sexual abuse, or maiming. If the gang crime is a serious violent felony, the criminal can receive up to 30 years in prison. And for other violent gang crimes, the maximum penalty is 20 years in prison.
- Increases the maximum penalties for violence committed in furtherance of racketeering, so that the laws complement one another, and provide punishment appropriate to the more serious, and more dangerous, organized nature of these offenses.
- **Creates tougher laws for certain federal crimes like carjacking, conspiracy, and other existing offenses in which gang members may be involved.**
  - Eliminates barriers that limit the abilities of prosecutors to charge individuals who commit serious crimes like carjacking;
  - Increases the penalties for violent felons who possess firearms; and
  - Allows an offense committed in Indian country to serve as a predicate crime for a racketeering crime.
- **Clarifies that impersonating a police officer is a form of extortion that can be prosecuted under the federal Hobbs Act.**
- **Extends the time within which a violent crime case, or a terrorism crime can be charged and tried.** For violent crime, the time is extended from 5 years to 10 years after the offense occurred or the continuing offense was completed. For terrorism cases, the time is extended from 8 to 10 years.
- **Allows for detention of persons charged with possession of firearms who have been previously convicted of prior crimes of violence or serious drug offenses.** Current law does not allow a prosecutor to ask that a person be held without bail based on the person being convicted of being a felon in possession of a firearm. This bill would allow prosecutors to make that request of a judge but would also allow a criminal defendant the right to argue why he or she should not be held.
- **Permits wiretaps to be used for the investigation of gang crimes.** The use of wiretaps – which must be approved and monitored by judges – has proven widely successful in

rackeering (RICO) and narcotics cases. This bill would extend this accepted wiretap process to the gang crimes created by this bill.

- **Increases penalties for illegal aliens committing violent crimes.** If an illegal alien commits a felony crime of violence, he would be subject to a maximum penalty of 20 years. If he commits a felony crime of violence after being ordered deported, he would face a maximum penalty of 30 years.
- **Increases penalties for criminal transfer of firearms for use in crimes of violence and drug trafficking.** This section increases the maximum penalty from 10 to 20 years if the seller knows that a gun he transfers will be used in a crime of violence or a drug trafficking crime.

### **Prevention and Intervention**

- **Creates and provides assistance for “High Intensity” Interstate Gang Activity Areas (HIIGAA).** This legislation requires the Attorney General to designate certain locations as high intensity interstate gang activity areas, and provides assistance in the form of criminal street gang enforcement teams made up of local, state and federal law enforcement authorities to investigate and prosecute criminal street gangs in each high intensity interstate gang activity area.
- **Authorizes funding of \$500 million over five years to support HIIGAA activities, half of which would be used to promote prevention efforts.** Local Schools, service providers and community and faith leaders with demonstrated success in fighting gangs, would be empowered to work collaboratively with law enforcement in a coordinated approach to fighting gangs, following the “Operation Ceasefire” model.  
A national Research, Evaluation and Policy Institute would also be established to collect, analyze and teach “best practices” for fighting gang violence. One-half of these dollars-- \$250 million -- will go to prevention and intervention programs. This includes after-school and job-training directed toward gang prevention.
- **Authorizes \$100 million over five years to expand the Project Safe Neighborhood program,** with an expansion of prosecutors and law enforcement agents focused on reducing violence and gun crimes by gang members.
- **Authorizes \$50 million over five years for expansion of the FBI’s Safe Streets Program,** to investigate and prosecute violent street gangs and criminals;
- **Authorizes \$100 million over five years to expand crime control grants to state and local governments,** so they can hire additional prosecutors, staff and technology as needed to bring more cases against gangs and violent criminals.
- **Authorizes an additional \$270 million over three years for witness protection needs, including those of state and local prosecutors.**

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